IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPLICATION NO.14 OF 2000

The Commissioner of Wealth-Tax ..Applicant.

V/s.

Shri Champalal Jalan ..Respondent.

Mr.R.V.Desai, senior counsel with Mr.R.Asokan for applicant.

Ms.Shobha C.Khavnekar i/b.Smt.Uma Wagle for respondent.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 25TH FEBRUARY, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The following two substantial questions of law are sought to be raised in the above application:-

1. Whether on the facts and in the circumstances of the case the ITAT did not err in law by holding that the penalty u/s.18(1)(c) of the Wealth Tax Act was not possible because the penalty imposed u/s.271(1)(c) of the Income Tax Act for the corresponding assessmernt myear was not upheld by the ITAT ?

2. Whether on the facts and in the circumstances of the case the ITAT didnot err in law by holding that the increase in the assessed

profit of the firm as a result of the concealed income upheld in ITA No.3372 to 3376/Mum/86 dated 12.12.95 did not lead to corresponding augmentation of the capital of the respective partner of the firm and hence the net wealth of the individual partner ?

2. So far as question No.1 is concerned, the penalty under section 18(1) (c) of the Wealth Tax Act in view of the penalty levied under section 271(1)(c) of the Income Tax Act was set aside. The Tribunal has followed the case of Shri Lalta Prasad Goenka wherein similar questions were raised. The revenue is unable to make a statement whether the matter was carried any further. As the findings of fact of the Tribunal have become final, we see no merit in the above matter. The application stands dismissed.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)